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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,735	06/27/2003	Donald J. Polak	03-087	7698

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EXAMINER

WUJCIAK, ALFRED J

ART UNIT PAPER NUMBER

3632

DATE MAILED: 09/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/608,735

**Applicant(s)**

POLAK ET AL.

**Examiner**

Alfred Joseph Wujciak III

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2006.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 4 and 21-24 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 4 and 21-24 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 27 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8/4/05.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

This is the final Office Action for the serial number 10/608,735, ONE-PIECE MOLDED CLAMP, filed on 6/27/03.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 4 and 23-24 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent # 3,054,585 to Roberts et al.

Robert et al. teaches an adjustable one-piece molded clamp comprising a first jaw (114) having inward facing surface, an outward facing surface, a first end and a second end. The clamp includes a second jaw (13) unitarily formed with the first jaw. The second jaw has an inward facing surface, an outward facing surface, a first end and a second end. The clamp comprises a tension strap (110) unitary formed with the first jaw. The outward facing surface of the second jaw having at least two notches (15) angularly offset from the outward facing surface. The strap having at least one through-aperture having an inner edge through which the second jaw is able to pass. The inner edge of the through-aperture is able to be releasably engaged with at least one of the notches. The second ends of the first and second jaws further comprise means to mount (112 and fastener) the clamp on a surface. The clamp is made of polymer (plastic material, col. 1, line 71). The second jaw is positioned parallel to the first jaw in the first plane.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roberts et al. in view of US Patent # 6,164,604 to Cirino et al.

Robert et al. teaches the clamp but fails to teach the clamp includes at least one protrusion on the inward facing surfaces of the first and second jaws. Cirino et al. teaches the clamp having at least one protrusion (12) on the inward facing surfaces of the first and second jaws. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added protrusion to Robert et al.'s first and second jaws as taught by Cirino et al. to prevent an object from rotating inside the first and second jaws.

***Response to Arguments***

Applicant's arguments filed 6/26/06 have been fully considered but they are not persuasive.

The applicant argues Robert et al. does not disclose the adjustable one-piece molded clamp comprising first and second jaws positioned substantially parallel in a first plane, at least two notches are in the outward facing surface of the second jaw and a tension strap unitarily formed with the first jaw extending from inward facing surface thereof having at least one through-aperture for engaging the at least one of the notches. The examiner disagrees with the

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applicant because Roberts et al. has all elements, first jaw (114), second jaw (13) positioned in parallel in the first plane, at least two notches (15) formed in second jaw and a tension strap (110) unitarily formed with the first jaw extending from inward facing surface having at least one through-aperture for engaging the at least one of the notches as shown in figure 7.

The applicant argues "second jaw" is not taught in Roberts et al.'s invention because the specification states that element 13 is a branch and that the branch is not considered or interpreted as second jaw. Furthermore, the applicant disagrees that Roberts et al.'s element 114 is considered as first jaw because the specification states the element 114 is bent from the base. The examiner disagrees with the applicant regarding the terminology Roberts et al. uses to define or label elements 13 and 114 that fails to teach "first jaw" and "second jaw" because elements 13 and 114 are paralleled to each other for retaining an object therein and that at least one of elements is movable for clamping the object against the other element that is in stationary position just like human's jaws. One of human's jaws is movable and the other is stationary.

The applicant argues Roberts et al.'s flexible strap does not extend from an inward facing surface of the base. The examiner disagrees with the applicant because figure 7 shows the strap extends from inward and outward surfaces of the base. The end of inward and outward surfaces form in strap, therefore, Roberts et al. teaches the strap extends from inward facing surface of the base.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge

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generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Roberts et al. and Cirino et al. both teach adjustable clamp having two jaws for retaining an object therein, the examiner used Cirino et al.'s reference with protrusion to add on Roberts et al.'s clamp to prevent the object from rotating when being secured therein.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alfred Joseph Wujciak III whose telephone number is (571) 272-6827. The examiner can normally be reached on 8am-4:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on (571) 272-6815. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alfred Joseph Wujciak III  
Primary Examiner  
Art Unit 3632



9/1/06